

**REMARKS**

In the Amendments to the Specification and Amendments to the Claims, changes are indicated by ~~strikethrough~~ for deleted matter and underlining for added matter, except that for deletions of five characters or fewer, or where ~~strikethrough~~ cannot be easily perceived, [[double brackets]] are used, or alternatively extra portions of text are included before and after text being deleted, all in ~~strikethrough~~, followed by the changed portion and extra text all underlined.

For clarity, the headings used in these remarks conform generally to the presentation of the Examiner's rejections and comments in the Detailed Action. In this response, references to line numbers are to the specification and claims as they were prior to any amendments referred to herein.

**Rejection Under § 35 USC 103 (a): Claims 1-2, 5, 7-8, 10-12, 16 and 18**

The Examiner has rejected claims 1-2, 5, 7-8, 10-12, 16 and 18 under 35 USC 103 (a), alleging that the claims are unpatentable over the combined teachings of Nelson, Hirai, and Pellin. As the Examiner has not raised any new allegations relating to Nelson and Hirai and as Applicant has previously responded to the allegations previously raised, the Applicant focuses on Pellin in light of the other cited references in the arguments below.

**Argument**

Applicant submits that it is not obvious to combine the teaching of Pellin with those of Nelson and Hirai to arrive at the present invention. The Examiner asserts that it would have been obvious to construct the outlet of the UV source as in Pellin (which discloses a venturi configuration) because it would enhance irradiation contact time with the air while controlling the air flow at the outlet. Applicant notes that the disclosure in Pellin to which the Examiner refers, at column 2 lines 58 to 68, teaches the configuration of the venturi to have the advantage of "oblig[ing] the air which has been accelerated by fan 6

to pass close to the wall of the tube 10 and because of this to become ionized [...]". That is, the advantage of the venturi configuration taught by Pellin is that the air flow approaching the germicidal tube is funneled by the venturi to pass close to the walls of the tube. As this function is not the same as the function of a diffuser, Applicant respectfully submits that this teaching would not suggest or motivate one of ordinary skill in the art to combine Pellin with Hirai and Nelson and arrive at the claimed combination. Accordingly, Applicant respectfully submits that Pellin, Hirai, and Nelson do not render the claims in issue obvious. Applicant therefore respectfully submits that no further amendments are needed to overcome the Examiner's objection to these claims.

#### **Rejection Under § 35 USC 103 (a): Claims 21-27**

The Examiner has rejected claims 21-26 under 35 USC 103 (a), alleging that the claims are unpatentable over the combined teachings of Nelson, Hirai, and Haidinger, and has rejected claim 27 as being unpatentable over Nelson, Hirai, Haidinger, and further in view of Pellin. While Applicant does not agree that Haidinger in light of Nelson and Hirai renders claims 21 to 26 unpatentable, Applicant amends claim 21 and cancels claim 27 in order to expedite allowance of the application, and arguments in support Applicant's position in respect of Haidinger and in support of these amendments are presented below. Further, as the Examiner has not raised any new allegations relating to Nelson and Hirai and as Applicant has previously responded to the allegations previously raised, the Applicant focuses on Pellin and Haidinger in light of Nelson and Hirai in the arguments below.

#### **Arguments**

The Examiner refers to the disclosure at column 3, lines 27-68 of Haidinger as support for her allegation that it would have been obvious to one of ordinary skill in the art to employ baffle means. As the Examiner points out, Haidinger teaches the placement of baffle means upstream of a UV source in order to produce a uniform cross-sectional air flow. In contrast, the instant application does not teach a requirement for uniform cross-

sectional air flow through the decontamination device but rather teaches that the air flow pass for an operative dwell time into operative proximity to as least one UV emitter, which would not necessarily entail a uniform cross-sectional air flow and indeed in some embodiments could require non-uniform cross-sectional air flow. As such, Applicant respectfully submits that the Haidinger teaching would not suggest or motivate one of ordinary skill in the art to combine Haidinger with Hirai and Nelson and arrive at the combination of claims 21 to 26. However, in the interest of expediting allowance of the application, Applicant amends claim 21 to clarify that the outlet end of the decontamination device is formed to flare outwardly such that it operates as a diffuser, and cancels claim 27 which is rendered redundant by the amendment of claim 21. As the amendment of claim 21 may render the Examiner's objection to the now-cancelled claim 27 applicable to the now-amended claim 21 (and to claims 22 to 26 which depend therefrom), Applicant hereby reiterates the argument set out above in respect of Pellin, and respectfully submits that the Pellin teaching would not suggest or motivate one of ordinary skill in the art to combine Pellin with Hirai, Nelson, and Haidinger and arrive at the combination claimed in claims 21 to 26.

**Rejection Under § 35 USC 103 (a): Claims 27-32**

The Examiner has rejected claims 27-32 under 35 USC 103 (a), alleging that the claims are unpatentable over the combined teachings of Nelson, Hirai, and either Knuth or Tuckerman. In order to render claims 28 to 32 (as claim 27 is cancelled) consistent with the other claims in the application, Applicant amends claim 28 to clarify that the outlet end of the decontamination device is formed to flare outwardly such that it operates as a diffuser. Applicant's arguments as to the patentability of claim 1 and claims depending therefrom apply equally to amended claim 28 and its dependent claims 29 to 32, and so Applicant respectfully submits that claims 28 to 32 are not obvious in light of the disclosure of portable configurations in Knuth or Tuckerman in combination with the teachings of Nelson and Hirai.

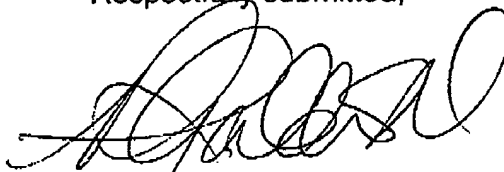
09/855,546  
Page 12

### Other Prior Art

Finally, as the Examiner does not rely on Sevier and Wood, Applicant does not address these references herein. However, should the Examiner wish to have Applicant address the disclosures in these references, Applicant respectfully requests that the Examiner specify her objections to the application in light of these references.

Allowance of this application is respectfully requested.

Respectfully submitted,



Roseann B. Caldwell,  
Reg. No. 37,077

BENNETT JONES LLP  
4500 - 855 - 2nd Street S.W.  
Calgary, Alberta CANADA  
T2P 4K7

tel. (403) 298-3661  
fax (403) 265-7219

Date: Oct 20/05